

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3660

Report Summary

(Annotated to include Judicial Council actions taken on July 7, 2004)

TO: Members of the Judicial Council

FROM: Ronald G. Overholt, Chief Deputy Director
Christine M. Hansen, Director, Finance Division 415-865-7951
Stephen Nash, Assistant Director 415-865-7584

DATE: July 1, 2004

SUBJECT: Methodology for Allocation of the FY 2004–2005 Unallocated
Reductions for Trial Courts (Action Required)

Issue Statement

When enacted, the Budget Act of 2004 will most likely contain unallocated reductions to the State Trial Court Funding budget. This report is based on the reductions as they are known at this time. These reductions are described in more detail in the Background section of the report. In addition, the Budget Act of 2003 included an ongoing \$2.5 million in reductions in the area of consolidated administration that was first allocated in FY 2003–2004. Staff have just been notified of an additional \$5 million in one-time reductions to trial court budgets. These reductions will affect the operating budgets of the trial courts. The Judicial Council is required to approve the allocation of these reductions in funding in order to ensure the ability of the courts to carry out their functions effectively. (Cal. Rules of Court, Rule 6.101(b)(4).) In this report, Administrative Office of the Courts (AOC) staff provides recommendations for methodologies to allocate these reductions among the trial courts. The approved methodologies should be implemented as soon as possible after enactment of the budget to enable courts to absorb them over the entire fiscal year.

Recommendation

Staff recommends that the Judicial Council:

1. Approve the following actions to address a portion of the \$50 million in one-time allocations and \$20 million in ongoing allocations for the trial courts for FY 2004–2005:
 - Ongoing reduction of \$900,000 generated from salary savings from the Assigned Judges Program (program 35);
 - Ongoing reduction of \$100,000 from the Judicial Salary Budget (program 25);
 - One-time reduction of \$1 million from the Assigned Judges Program; and
 - One-time reduction of \$8 million from the Trial Court Improvement Fund (savings which result from projects being paid for through one-time savings to the General Fund generated by temporary cost saving measures implemented in the Judiciary Budget).

The preceding recommendation was approved by the Judicial Council.

2. Approve the utilization of trial court reserves as recommended by the AOC executive team. This includes all amounts above 10% of the FY 2004–2005 annual allocations, or \$100,000, whichever is greater, plus any confirmed legally committed reserves and funding set aside for critical projects, and any items approved by the AOC executive team during the appeals process, which would be utilized as an offset for a portion of the FY 2004–2005 one-time reduction;

The preceding recommendation was approved by the Judicial Council.

3. Adopt the following as an ongoing policy for reserves “10% of annual allocations, or \$100,000, whichever is greater, plus confirmed legally committed reserves and critical projects.”

Instruct staff to provide definitions to trial courts as to what qualifies as legally committed reserves and funding set aside for critical projects.

Staff added the above recommendation before the council meeting to present a reserve policy for the council’s consideration. The Judicial Council approved it.

4. Approve the allocation of the remainder of the FY 2004–2005 one-time reduction and the ongoing reduction, using the proposed methodology, which looks at case weights; adjusted base funding; clustering of courts by number of

JPEs; computing an allocation per weighted filing; and setting of reduction levels as follows:

- courts in the low reduction level would have a .8% reduction applied for the one-time reduction and no ongoing reduction;
- courts in the medium reduction level would have a 1.9% one-time reduction and a 1.3% ongoing reduction applied, for a total of 3.2% for the fiscal year; and
- courts in the high reduction level would have a 3.1% one-time reduction and a 2.1% ongoing reduction applied, for a total of 5.2% for the fiscal year.

Courts that have a reserve adjustment would receive a 50% one-time reduction credit against their additional one-time reduction.

Formerly recommendation 3, the preceding recommendation was approved by the Judicial Council.

5. Direct staff to review the adequacy of base funding for those courts that are at the low end of the cost per filing comparison for their cluster, with the intent to submit a request to the Judicial Council for FY 2004–2005 to provide one-time emergency funds, if warranted, and seek ongoing permanent funding from the DOF in the FY 2005–2006 budget process;

Formerly recommendation 4, the preceding recommendation was approved by the Judicial Council.

6. Delegate authority to the Administrative Director of the Courts to make adjustments to the allocations, where we are awaiting final decisions on the reserves. A change in the amount of the reserves that can be applied to the reduction will affect the allocation to all courts;

Formerly recommendation 5, the preceding recommendation was approved by the Judicial Council.

7. To the extent that a court has experienced a reduction in the level of their Trial Court Trust Fund (TCTF) reserves as a result of the implementation of this policy, the Judicial Council directs staff to present recommendations to the council at a future meeting to provide for reimbursement to those affected courts at a rate not to exceed 50 percent of the amount of excess TCTF reserves. Reimbursements are subject to an improvement in the state fiscal environment, but should occur no later than June 2009. Any reimbursement will be subject to offsets in the affected court's one-time reductions as well as any budget augmentations secured to resolve ongoing, underfunding issues.

Instruct staff to return to the Judicial Council in August with criteria for reimbursing reserves where courts fall below the established reserve limit and have demonstrated need.

Formerly recommendation 6. After discussing this recommendation and how future reimbursement would be handled, the Judicial Council had staff add the last sentence requiring presentation of criteria for reimbursing reserves at the August 2004 council meeting.

8. Approve the allocation of the FY 2004–2005 \$2.5 million consolidated administration reduction, on a one-time basis, by applying a prorated reduction of the entire \$2.5 million against trial courts' FY 2004–2005 total baseline budget (excluding interpreter, court-appointed counsel, and reimbursable jury), as displayed in column D of Attachment 2; and

Formerly recommendation 7, the preceding recommendation was approved by the Judicial Council.

9. Authorize staff to redirect \$5 million from the Litigation Management Program, on a one-time basis, to address the recently identified \$5 million in one-time reductions.

Formerly recommendation 8, the preceding recommendation was approved by the Judicial Council.

Rationale for Recommendation

Recommendation 1. One-time funds resulting from salary savings or other types of savings from Judicial Branch sources have been used in previous years to meet the reductions for the trial courts. These actions will not negatively impact the programs involved and will result in there being less of an impact to the trial courts in their ability to meet the important obligation of providing access to justice to the public.

Recommendations 2-5. A primary reason for taking this approach was the unequal impact the method used in prior years of applying a pro-rata reduction across all trial courts had on the courts. The recommended method looks at many relevant factors, not just the level of allocation, and provides for a more equitable way to distribute the reductions. The use of excess reserves from courts that have them, to address one-time reductions, helps to alleviate the full impact of the reduction from other courts that have little or no reserves available. If funds are available, and courts needs are proven, requests for one-time emergency funds should be made to the Judicial Council to provide relief to courts with inadequate funding. In the meantime, staff can pursue ongoing funding, as warranted and

allowed by the DOF, for permanent funding to address these needs. There are still some items that have been appealed that are awaiting additional input before a final determination can be made. Once the final decisions are made, adjustments may need to be made to the amount of reserves that can be used to offset the unallocated reductions. If this number changes, the amount of the ongoing unallocated reduction will change for all courts.

Recommendation 6. Some courts will experience reductions in their reserves through the use of the excess reserve methodology. Staff believe it is equitable to reimburse the court within a five year period up to the level of 50% of the reserves they contributed to the one-time reduction, subject to any offsets and budget augmentations secured and provided to the court to resolve ongoing, underfunding issues.

Recommendation 7. The prorating of the \$2.5 million is recommended because, even though the working groups that have been directed to address this area are acting with staff in the development of contracts and procedures that will eventually assist courts in achieving operational savings, they have requested that they receive an additional year to enable them to reach this goal, and that the same allocation procedure be used this year as last. Staff believe that this is a reasonable request.

Recommendation 8. As with the first recommendation to utilize other funding sources, such as savings in the assigned judges program, to address portions of the \$70 million unallocated reduction, using Litigation Management Program funds to relieve courts of an additional reduction to their budgets is a reasonable use of these funds.

Alternative Actions Considered

Recommendation 1. The only other alternative available was to apply the full \$70 million in reductions against the trial courts' allocations. Because savings were available from other non-Program 10 sources, it was determined that they should be utilized to offset the negative impact of the reductions to the trial courts.

Recommendations 2-5.

Staff looked at utilizing the Resource Equity Model (REM) in determining the \$50 million one-time and \$20 million in ongoing unallocated reductions, but determined that it should not be used for two reasons. (1) REM utilizes actual expenditures, not allocations. A review of actual allocations to expenditures showed that some courts were under-spending their budgets while others were over-spending their budgets. (2) REM uses information from the QFS and a review of reporting practices showed that some courts were reporting most of their operating expenses in one program, such as Administration, while others were

reporting them across all programs. Staff are currently reviewing procedures for implementation in FY 2004–2005 to achieve greater consistency.

Staff also considered a prorated method of allocating reductions based upon each court's baseline allocations (excluding juror, interpreter, and court appointed counsel). This method would not address court needs because it does not take into consideration each court's level of resources as compared to their workload, nor does it reflect the disparate impact that an across-the-board reduction will have on courts with different levels of resources.

Another option considered was to not take into account the reserves as part of the reductions, which would result in increasing the percentage reduction to every court by approximately 50 percent. Because some courts have very large reserves while others have none, it did not appear equitable to allow some courts to continue to absorb the reductions with no impact to their operations, while others have to institute severe budgetary constraints.

Recommendation 6. No alternatives were considered.

Recommendation 7. Based on the recommendation of the two working groups, no other alternative was considered.

Recommendation 8. No alternatives were considered.

Comments from Interested Parties

A variety of proposed methodologies for the \$70 million in unallocated reductions were presented to the Trial Court Executive Management Budget Working Group for their input. Some changes were made to the methodology to meet the concerns expressed by the working group. The methodology was also presented to the Trial Court Presiding Judges Advisory Committee and the Court Executive Advisory Committee at a joint meeting and the Judicial Branch Budget Advisory Committee.

The Regional Administrative Directors have compiled and summarized the concerns and comments of the trial courts on the methodology. Their report, which contains a table of comments, is Attachment 3 to this report.

Implementation Requirements and Costs

If the council approves the staff recommendation to review the adequacy of funding for specific courts whose reserves have been utilized to address the one-time allocations and that are at the low end of the cost per filing comparison, staff may seek deficiency funding during FY 2004–2005 and may seek ongoing

funding through the budget request process. Otherwise, no additional funds will be sought to implement the recommendations.

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3660

Report

(Annotated to include Judicial Council actions taken on July 7, 2004.)

TO: Members of the Judicial Council

FROM: Ronald G. Overholt, Chief Deputy Director
Christine M. Hansen, Director, Finance Division 415-865-7951
Stephen Nash, Assistant Director 415-865-7584

DATE: June 29, 2004

SUBJECT: Methodology for Allocation of the FY 2004–2005 Unallocated
Reductions for Trial Courts (Action Required)

Issue Statement

When enacted, the Budget Act of 2004 will most likely contain unallocated reductions to the State Trial Court Funding budget. This report is based on the reductions as they are known at this time. These reductions are described in more detail in the Background section of the report. In addition, the Budget Act of 2003 included an ongoing \$2.5 million in reductions in the area of consolidated administration that was first allocated in FY 2003–2004. These reductions will affect the operating budgets of the trial courts. The Judicial Council is required to approve the allocation of these reductions in funding in order to ensure the ability of the courts to carry out their functions effectively. (Cal. Rules of Court, Rule 6.101(b)(4).) In this report, Administrative Office of the Courts (AOC) staff provides recommendations for a methodology to allocate these reductions among the trial courts. The approved methodology should be implemented as soon as possible after enactment of the budget to enable courts to absorb them over the entire fiscal year.

Background

There are four different unallocated reductions discussed in this report. Three of them are included in the pending state budget for FY 2004–2005, and the other is for an unallocated reduction first applied in FY 2003–2004. The AOC was

recently notified about one of these reductions within the past couple of days. The reductions are as follows:

1. \$50 million in one-time reductions.
2. \$20 million in ongoing reductions.
3. \$2.5 million ongoing reduction for consolidated administration. This ongoing reduction was established in the Budget Act of 2003 and the reduction was first applied in FY 2003–2004. The methodology approved by the council at its February 2004 business meeting for the FY 2003–2004 reduction applied the reduction against each court’s FY 2003–2004 total baseline budget (excluding interpreter, court-appointed counsel, and reimbursable jury).
4. An additional \$5 million in one-time unallocated reductions to the trial court budget.

The reductions are addressed in the order they appear above.

Partial Funding of \$50 Million and \$20 Million Unallocated Reduction from Other Than Trial Courts Funding

Last year, the Judicial Council directed staff to address that year’s unallocated reduction, to the extent possible, through the use of the Judicial Administration Efficiency and Modernization Fund (Modernization Fund), Trial Court Improvement Fund (TCIF), Judiciary Salary Budget, and Assigned Judges Program. Staff have reviewed the availability of funds in these and other sources and have developed recommendations to address a portion of the FY 2004–2005 unallocated reduction.

Recommendation

1. AOC staff recommends that the Judicial Council approve taking the following actions to address a portion of the \$50 million in one-time allocations and \$20 million in ongoing allocations for the trial courts for FY 2004–2005:

- Ongoing reduction of \$900,000 generated from salary savings from the Assigned Judges Program (program 35);
- Ongoing reduction of \$100,000 from the Judicial Salary Budget (program 25);
- One-time reduction of \$1 million from the Assigned Judges Program; and

- One-time reduction of \$8 million from the Trial Court Improvement Fund (savings which result from projects being paid for through one-time savings to the General Fund generated by temporary cost saving measures implemented in the Judiciary Budget).

The preceding recommendation was approved by the Judicial Council.

These actions will address \$9 million of the one-time reduction and \$1 million of the ongoing reduction, leaving \$41 million in one-time reductions and \$19 million in ongoing reductions. The following section discusses the methodology proposed to address the remainder of the reductions.

Rationale for Recommendation

One-time funds resulting from salary savings or other types of savings from Judicial Branch sources have been used in previous years to meet the reductions for the trial courts. These actions will not negatively impact the programs involved and will result in there being less of an impact to the trial courts in their ability to meet the important obligation of providing access to justice to the public.

Alternative Actions Considered

The only other alternative available was to apply the full \$70 million in reductions against the trial courts' allocations. Because savings were available from other non-Program 10 sources, it was determined that they should be utilized to offset the negative impact of the reductions to the trial courts.

Proposed Methodology for Addressing the \$50 Million in One-Time and \$20 Million in Ongoing Reductions

The trial courts have faced unallocated reductions to their operating budgets in the past two fiscal years. These reductions were allocated to the courts on a pro-rated basis based upon the relative sizes of each court's annual allocation. Concerns have been raised by courts regarding the fairness of this methodology given that some courts have been able to absorb their portion of the reductions easily and to hire new staff, while others must implement severe budgetary measures, including hiring freezes and layoffs. In order to ensure that the reductions are allocated in such a way as to minimize the impact on the state trial courts overall, an inter-divisional group of AOC staff worked together to develop a model for implementing reductions that utilizes an analysis of the relative level of resources provided to each court per weighted filing, as well as utilizing funding reserve information.

Staff from the Finance and Executive Office Programs Divisions met several times to discuss possible options for meeting the expected level of reductions. After developing some possible options, staff met with the Trial Court Executive

Management Budget Working Group, which is comprised of presiding judges and executive officers, to obtain their input. A second follow up meeting was held by conference call. Staff also presented the methodology to a joint meeting of the Trial Court Presiding Judges Advisory Committee and the Court Executive Advisory Committee, and to the Judicial Branch Budget Advisory Committee.

Based upon the input received from these sources, staff have developed a methodology to implement unallocated reductions in a manner that is intended to be rational and fair. Important elements of this approach are detailed on the following pages.

Case Weighting

The recommended approach utilizes minutes per filing information compiled by the AOC's Office of Court Research based upon a detailed study performed at nine courts. This information was segregated by type of case so that the processing workload of the various case types could be compared. Based upon this information, court filings were then weighted to the relative weight of traffic cases, based upon an average of the different processing times reported for the nine courts studied. This weighting was then applied to the average of two years (FY 2000–2001 and 2001–2002) of case filing information reported by each of the 58 courts to create a per court total weighted filings amount.

Adjusted Base Funding

The base funding amount that was utilized in the model was the ongoing base allocation to each court, less base security funding, which was excluded from this analysis because security funding is being separately analyzed for purposes of implementing ongoing security reductions included in the Budget Act of 2003. Jury and Court Appointed counsel funding, which are annually adjusted and reimbursed, were also not included. Because the cost of judges is not included in court funding, the cost of subordinate judicial officers was also removed from the base allocation amount. Finally, the costs of court executive officers were excluded from the base funding, because the inclusion of these costs represented a significantly higher percentage of the total base budget for smaller courts than larger courts.

In order to negate the effect of the difference in the cost of labor from one court to another in the methodology, an average statewide court salary and benefit cost was determined and then a salary cost equalization factor was computed for each court. The cost of labor information provided by the Economic Research Institute was utilized to develop a county-by-county scale. In order to ensure that courts are not disadvantaged by either a higher than average employee compensation level or by higher cost of living information for the county in which the court is situated, these scales were compared and whichever percentage adjustment most favored

the court was adopted. These adjustment factors were then applied to the personal services component of each court's allocated funding to derive an adjusted base funding amount for each court.

Court Clustering

Another factor taken into consideration in analyzing court workload information and operational costs was the size of each court. For example, because there are efficiencies that accrue to larger courts that are unavailable to smaller courts, there is an inherent unfairness in comparing the largest courts to very small two judge courts. Consequently, in order to be able to compare the level of resources to workload in a manner that recognizes these differences, the courts were separated into four statewide clusters based upon the number of judicial position equivalents (JPEs). The JPE calculation reflects authorized judicial positions adjusted for vacancies, assistance rendered by the court, and assistance received by the court from assigned judges, temporary judges, commissioners, and referees. For the purposes of this methodology, all AB 1058 commissioners were removed from the JPE calculation.

Allocation Per Weighted Filing and Reduction Levels

The three factors mentioned above were utilized to compute an allocation per weighted filing and the reduction levels. The adjusted base funding amount, as described previously, was divided by the number of weighted filings for each court to derive an allocation per weighted filing. This amount was then compared to other courts' funding per weighted filings within the same cluster to determine cluster average costs. Based upon the average of these costs, courts were then arrayed by percentage above or below the average for their cluster.

Staff determined that different levels of reductions should be applied based upon the level of resources per filings workload, for courts within each cluster. In order to do this, courts within each cluster were separated into three segments as follows: (1) low reduction level courts – those that have funding per weighted case filings of 20% or more below the average cost per filing, (2) medium reduction level courts – those whose funding falls within 20% below and 20% above the average cost of weighted filings, and (3) high reduction level courts – those that have average cost filings in excess of 20% above the average cost per filing for the court cluster. Those courts within a cluster that fall in the first segment would have the lowest reduction percentage applied, those courts in the second segment would have a higher average reduction applied, and courts in the third group would receive the highest reduction percentage.

Utilization of Excess Reserves to Reduce Statewide Reductions

Another factor that was used in the determination of reduction levels was an analysis of Trial Court Trust Fund (TCTF) reserves. Courts have accumulated

TCTF reserves through various means and for various purposes. For example, in a previous fiscal year, based on a limited analysis of available data, some courts that appeared to be underfunded compared to other courts, were provided additional ongoing funding. It may be that some of these courts were not able to fully utilize all of this funding, perhaps because they did not have the space available to hire new staff or the ability to create or expand programs. Some courts very deliberately held back on spending in order to set money aside for a “rainy day.” Quite a few courts put money away to cover personnel and contractual costs in the quite likely event that the state budget would not be signed on time, resulting in their not receiving their normal allocation on time. This last concern has been, for the most part, rendered moot, based on an understanding with the State Controllers’ Office (SCO) whereby over the past couple of years the SCO has agreed to provide advance funding to cover not only payroll but also specified contract services funding. While there is no commitment from the SCO to continue to do so in the future, every indication is that this practice will be continued, if necessary.

In looking at the reserves, while many courts had minimal, if any, reserves, some courts had reserves that were substantial compared to their annual court operating costs. In order to determine if “excess TCTF reserves” should be used to offset the statewide reductions, staff sought the advice of the Trial Court Executive Management Budget Working Group which recommended that the targeted reserve amount be established at 10% of annual allocations plus any confirmed legally committed reserves and funding set aside for critical projects. Staff then reviewed court reported reserves in both the FY 2003–2004 Schedule 1 and the second quarter Quarterly Financial Statement (QFS), and focused on whichever was lower. This analysis identified approximately \$20-\$21 million in “excess reserves” statewide that could be used to partially offset the one-time statewide unallocated reduction in FY 2004–2005. The ultimate amount of the reserves utilized would be applied towards the one-time reduction, resulting in a lower level of one-time reduction that would have to be achieved. Using this approach, if a court received an adjustment to reserves, a 50% credit was applied against the additional one-time reduction they faced, as described in the next section.

Excess Reserve Appeals Process

Twenty-one courts were determined by staff to have excess TCTF reserves based on the methodology explained under the “Utilization of Excess Reserves to Reduce Statewide Reductions” section above and were individually contacted by their AOC regional director and informed of the amount of funding that could potentially be used for the one-time reduction. They were advised of the process through which they could appeal staff’s recommendation. The process provided that courts could appeal only those amounts (1) that were designated as reserves on either the FY 2003–2004 Schedule 1 or FY 2003–2004 second quarter QFS,

whichever was less, and (2) that staff determined to be not legally committed or set aside for critical projects. Each of these courts received an e-mail indicating the amount subject to being utilized for the reduction offset. A form on which the court could state why they believed some or all of these reserves should not be taken from the court was also provided. The courts were given a week to complete the form and e-mail it to the AOC, if they wished to contest the recommendation of staff. This resulted in appeals being submitted by 18 courts.

AOC Finance division budget analysts reviewed the appeals from the courts. They followed up with the courts if there were any questions about their appeal or if documentation was missing. Staff also contacted other AOC staff, including Information Systems, Audit Unit, Office of the General Counsel, and Human Resources, for additional information where appropriate. The budget analysts then made preliminary recommendations to AOC Finance division management. Jointly, the entire Finance division team, composed of all of the regional budget analysts and Finance division management, applied consistent methodology to the analysis and made final recommendations.

The appeal documentation and the recommendations were then provided to an AOC executive team comprised of the Chief Deputy Administrative Director, Finance Division Director, and the three trial court Regional Directors. The executive team reviewed the information provided and made a decision on each of the appeals. Each court will be notified of the results of their appeal before the July 7 Judicial Council meeting. Some of the criteria applied by the executive team in making their decisions included:

- Whatever was appealed was critically reviewed, even though what was appealed may not have followed the specific criteria provided to the courts.
- Reserves are generally one-time and normally not appropriate for funding ongoing activities. Such ongoing costs should not occur until they can be addressed in the normal budget process.
- Reserve funding was not approved to fund new permanent or ongoing positions or services. To the extent that positions were already added and being funded from reserves, if a court was below average funded, the court was allowed to keep reserves for this purpose through FY 2004–2005. Recommendations included in this report would provide a process for permanently funding these costs within the court's annual ongoing appropriation.
- If a court has a base budget of less than \$1,000,000, the reserve limit was changed from 10% plus the amount of any legally committed funding or critical projects, to \$100,000 plus the amount of any legally committed funding or critical projects.

- Courts should rely on the 10% or \$100,000, whichever is greater, plus any Non-Trial Court Trust Fund reserves for cash flow, funding when there is a budget impasse, and other contingencies. If there is a catastrophe or a need for an advance due to cash flow issues, courts should rely on emergency funding from the AOC through the existing emergency funding process (Finance Letter TC 2003-005), not reserves.
- NSI and health funding that was received by a court for FY 2003–2004 that was not paid out but held in reserve, may be retained by the court as legally committed funding above the 10% threshold. Reserves held for FY 2004–2005 NSI, health benefit, and/or retirement obligations may also be retained, but will be offset against future FY 2004–2005 funding received for these purposes.
- Funding held in reserve for salaries and benefits in the event of a budget impasse were not approved because, historically, the State Controllers Office (SCO) has provided funding for these purposes during such an impasse.
- With regard to leave balance encumbrances, unless extraordinary lump sum “cash-out” costs are identified for a known retirement or departure from court in a year, the costs should be absorbed within the ongoing budget and not held as a legally committed reserve.
- Retention of reserves for projects or grants, where approved, was approved contingent on completion within a designated timeframe. If the timeframe is not met, courts will have to return the funding.

Results of the Appeal

Eighteen courts submitted appeals. The amount appealed was \$18,761,520. Of this amount, \$9,003,578 was approved to be retained by the courts and \$9,757,942 was denied.

The types of costs that were appealed and denied included:

- 30 days or more funding to cover salary and benefits in the event of a budget impasse. SCO has provided this funding historically.
- Reserve funding for equipment that had already been budgeted in the court’s FY 2003–2004 budget (Schedule 1).
- Costs to pay out leave or vacation balances that were based on all or most employees resigning or retiring within one fiscal year. While this may be a good accounting practice, it represents a very unlikely worst case scenario and not part of the criteria for retaining reserves above 10%. These are only allowed if they address specific employees.
- Funding for jury fees, which are reimbursable costs and provided by AOC per submission on the Quarterly Financial Statement (QFS).

- Amounts specified as “Contingencies”, which should be addressed within the 10% of baseline or \$100,000, whichever is higher.
- New permanent positions. These are inappropriate for funding with one-time funds.
- Limited term funding for new positions. The executive team approved one-time consultant contract to address specific needs.
- Technology/security upgrade for a court facility that may be closed in the near future.
- New security positions. These are inappropriate for funding with one-time funds.
- Items that were not rule 810 allowable.
- Utilization of reserve funds or 2% automation funds for PC replacement. Courts receive funds for PC replacement on a regular cycle through the Trial Court Improvement Fund.
- Funds to be used for NSIs, health care, or retirement for FY 2005–2006 and beyond. These are ongoing costs that should be funded through future allocations within the normal budget process.

The decisions on the appeals resulted in \$13,782,636 being set as the amount of reserves that can be applied toward the one-time reduction. Once this number was established, the final step in the process of determining the allocation of the remainder of the one-time reduction and the ongoing reduction could be completed.

Computation of Reductions for Each Court

As indicated previously, courts within each of the four clusters were separated into low, medium, and high reduction levels. Different percentages of reduction against base resources are recommended for each level. These percentages are:

- Low reduction level courts would have a .8% reduction applied for the one-time reduction and no ongoing reduction;
- Medium reduction level courts would have a 1.9% one-time reduction and a 1.3% ongoing reduction applied, for a total of 3.2% for the fiscal year; and
- High reduction level courts would have a 3.1% one-time reduction and a 2.1% ongoing reduction applied, for a total of 5.2% for the fiscal year.

(These percentages do not include the 50% one-time reduction credit that will be applied to courts that experience a reserve adjustment.) Because the reduction percentage is based on the adjusted base and not the entire court allocation, the actual percentage reduction to courts’ *overall* base resources will be lower than

indicated and lower than what the courts had to assume in FY 2003–2004, although none of those reductions were ongoing. Column A of Attachment 1 shows the amount of the one-time reduction and column B the amount of the ongoing reduction to be applied to the allocation of each trial court.

\$2.5 Million Consolidated Administration Reduction

There are two working groups – the Rural Court Judges Working Group on Administrative and Operational Efficiency and the Operational Cost Savings Working Group – that are developing proposals that would result in statewide operations savings that could be achieved on an ongoing basis. These groups suggested that the same prorated allocation methodology be utilized this year, as was used last year, allocating the entire \$2.5 million to the courts, while they continue to develop proposals for future savings. (See Attachment 2.)

Additional \$5 Million One-Time Unallocated Reduction

Staff were just notified of an additional \$5 million one-time unallocated reduction that will be made to the state trial court budget. Staff recommend that \$5 million from the AOC’s Litigation Management Program residing in the Trial Court Improvement Fund, be used to offset this reduction. This would result in no direct impact to the trial courts’ budgets. This funding has been made available through efficiencies achieved by the Litigation Management Program.

Recommendation

Staff recommends that the Judicial Council:

2. Approve the utilization of trial court reserves as recommended by the AOC executive team. This includes all amounts above 10% of the FY 2004–2005 annual allocations, or \$100,000, whichever is greater, plus any confirmed legally committed reserves and funding set aside for critical projects, and any items approved by the AOC executive team during the appeals process, which would be utilized as an offset for a portion of the FY 2004–2005 one-time reduction;

The preceding recommendation was approved by the Judicial Council.

3. Adopt the following as an ongoing policy for reserves “10% of annual allocations, or \$100,000, whichever is greater, plus confirmed legally committed reserves and critical projects.”

Instruct staff to provide definitions to trial courts as to what qualifies as legally committed reserves and funding set aside for critical projects.

Staff added the above recommendation before the council meeting to present a reserve policy for the council's consideration. The Judicial Council approved it.

4. Approve the allocation of the remainder of the FY 2004–2005 one-time reduction and the ongoing reduction, using the proposed methodology, which looks at case weights; adjusted base funding; clustering of courts by number of JPEs; computing an allocation per weighted filing; and setting of reduction levels as follows:
 - courts in the low reduction level would have a .8% reduction applied for the one-time reduction and no ongoing reduction;
 - courts in the medium reduction level would have a 1.9% one-time reduction and a 1.3% ongoing reduction applied, for a total of 3.2% for the fiscal year; and
 - courts in the high reduction level would have a 3.1% one-time reduction and a 2.1% ongoing reduction applied, for a total of 5.2% for the fiscal year.

Courts that have a reserve adjustment would receive a 50% one-time reduction credit against their additional one-time reduction;

Formerly recommendation 3, the preceding recommendation was approved by the Judicial Council.

5. Direct staff to review the adequacy of base funding for those courts that are at the low end of the cost per filing comparison for their cluster, with the intent to submit a request to the Judicial Council for FY 2004–2005 to provide one-time emergency funds, if warranted, and seek ongoing permanent funding from the DOF in the FY 2005–2006 budget process;

Formerly recommendation 4, the preceding recommendation was approved by the Judicial Council.

6. Delegate authority to the Administrative Director of the Courts to make adjustments to the allocations, where we are awaiting final decisions on the reserves. A change in the amount of the reserves that can be applied to the reduction will affect the allocation to all courts;

Formerly recommendation 5, the preceding recommendation was approved by the Judicial Council.

7. To the extent that a court has experienced a reduction in the level of their Trial Court Trust Fund (TCTF) reserves as a result of the implementation of this policy, the Judicial Council directs staff to present recommendations to the

council at a future meeting to provide for reimbursement to those affected courts at a rate not to exceed 50 percent of the amount of excess TCTF reserves. Reimbursements are subject to an improvement in the state fiscal environment, but should occur no later than June 2009. Any reimbursement will be subject to offsets in the affected court's one-time reductions as well as any budget augmentations secured to resolve ongoing, underfunding issues;

Formerly recommendation 6. After discussing this recommendation and how future reimbursement would be handled, the Judicial Council had staff add the last sentence requiring presentation of criteria for reimbursing reserves at the August 2004 council meeting.

8. Approve the allocation of the FY 2004–2005 \$2.5 million consolidated administration reduction, on a one-time basis, by applying a prorated reduction of the entire \$2.5 million against trial courts' FY 2004–2005 total baseline budget (excluding interpreter, court-appointed counsel, and reimbursable jury), as displayed in column D of Attachment 2; and

Formerly recommendation 7, the preceding recommendation was approved by the Judicial Council.

9. Authorize staff to redirect \$5 million from the Litigation Management Program, on a one-time basis, to address the recently identified \$5 million in one-time reductions.

Formerly recommendation 8, the preceding recommendation was approved by the Judicial Council.

Rationale for Recommendation

As mentioned previously, a primary reason for taking this approach was the unequal impact the method used in prior years of applying a pro-rata reduction across all trial courts had on the courts. The recommended method looks at many relevant factors, not just the level of allocation, and provides for a more equitable way to distribute the reductions. The use of excess reserves from courts that have them, to address one-time reductions, helps to alleviate the full impact of the reduction from other courts that have little or no reserves available. If funds are available, and courts needs are proven, requests for one-time emergency funds should be made to the Judicial Council to provide relief to courts with inadequate funding. In the meantime, staff can pursue ongoing funding, as warranted and allowed by the DOF, for permanent funding to address these needs. There are still some items that have been appealed that are awaiting additional input before a final determination can be made. Once the final decisions are made, adjustments may need to be made to the amount of reserves that can be used to offset the

unallocated reductions. If this number changes, the amount of the ongoing unallocated reduction will change for all courts.

Some courts will experience reductions in their reserves through the use of the excess reserve methodology. Staff believe that, if the state fiscal environment has improved, it is equitable to reimburse the court within a five year period up to the level of 50% of the reserves they contributed to the one-time reduction, subject to any offsets and budget augmentations secured and provided to the court to resolve ongoing, underfunding issues.

The prorating of the \$2.5 million is recommended because, even though the working groups are acting with staff in the development of contracts and procedures that will eventually assist courts in achieving operational savings, they have requested that they receive an additional year to enable them to reach this goal, and that the same allocation procedure be used this year as last. Staff believe that this is a reasonable request.

As with the previous recommendation to utilize other funding sources, such as savings in the assigned judges program, to address portions of the \$70 million unallocated reduction, using Litigation Management Program funds to relieve courts of an additional reduction to their budgets is a reasonable use of these funds.

Alternative Actions Considered

Three alternatives to the \$50 million one-time and \$20 million ongoing reductions were considered. No alternatives were considered for the other reductions except applying the full allocation amounts to the trial courts. The alternatives considered for the \$70 million in unallocated reductions were:

Staff looked at utilizing the Resource Equity Model (REM) in determining the \$50 million one-time and \$20 million in ongoing unallocated reductions, but determined that it should not be used for two reasons. (1) REM utilizes actual expenditures, not allocations. A review of actual allocations to expenditures showed that some courts were under-spending their budgets while others were over-spending their budgets. (2) REM uses information from the QFS and a review of reporting practices showed that some courts were reporting most of their operating expenses in one program, such as Administration, while others were reporting them across all programs. Staff are currently reviewing procedures for implementation in FY 2004–2005 to achieve greater consistency.

Staff also considered a prorated method of allocating reductions based upon each court's baseline allocations (excluding juror, interpreter, and court appointed counsel). This method would not address court needs because it does not take into

consideration each court's level of resources as compared to their workload, nor does it reflect the disparate impact that an across-the-board reduction will have on courts with different levels of resources.

Another option considered was to not take into account the reserves as part of the reductions, which would result in increasing the percentage reduction to every court by approximately 50 percent. Because some courts have very large reserves while others have none, it did not appear equitable to allow some courts to continue to absorb the reductions with no impact to their operations, while others have to institute severe budgetary constraints.

Comments from Interested Parties

As mentioned previously, a variety of proposed methodologies were presented to the Trial Court Executive Management Budget Working Group for their input. Some changes were made to the methodology to meet the concerns expressed by the working group. The methodology was also presented to the Trial Court Presiding Judges Advisory Committee and the Court Executive Advisory Committee at a joint meeting and the Judicial Branch Budget Advisory Committee.

The Regional Administrative Directors have compiled and summarized the concerns and comments of the trial courts on the methodology. Their report, which contains a table of comments, is Attachment 3 to this report.

Implementation Requirements and Costs

If the council approves the staff recommendation to review the adequacy of funding for specific courts whose reserves have been utilized to address the one-time allocations and that are at the low end of the cost per filing comparison, staff may seek deficiency funding during FY 2004–2005 and may seek ongoing funding through the budget request process. Otherwise, no additional funds will be sought to implement the recommendations.

Attachments

Proposed Allocation of One-Time and Ongoing Unallocated Reductions

Court System	One-Time Reduction A	Ongoing Reduction B	Total Reduction C
Alameda	(1,439,689)	(1,001,261)	(2,440,951)
Alpine	(279,810)	(11,021)	(290,831)
Amador	(35,496)	(24,687)	(60,183)
Butte	(141,078)	(98,115)	(239,193)
Calaveras	(357,655)	-	(357,655)
Colusa	(292,338)	-	(292,338)
Contra Costa	(673,784)	(468,597)	(1,142,381)
Del Norte	(725,623)	(25,783)	(751,406)
El Dorado	(202,946)	(141,143)	(344,089)
Fresno	(610,242)	(424,405)	(1,034,647)
Glenn	(10,603)	-	(10,603)
Humboldt	(99,074)	(68,903)	(167,977)
Imperial	(607,280)	(80,940)	(688,220)
Inyo	(125,396)	(22,999)	(148,395)
Kern	(4,853,644)	(381,897)	(5,235,541)
Kings	(95,961)	(66,739)	(162,700)
Lake	(16,661)	-	(16,661)
Lassen	(146,103)	-	(146,103)
Los Angeles	(8,094,546)	(5,629,518)	(13,724,064)
Madera	(2,253,278)	-	(2,253,278)
Marin	(450,333)	(313,193)	(763,527)
Mariposa	(68,797)	(9,401)	(78,198)
Mendocino	(89,271)	(62,085)	(151,356)
Merced	(44,576)	-	(44,576)
Modoc	(625,220)	(13,476)	(638,697)
Mono	(820,529)	(15,923)	(836,452)
Monterey	(247,198)	(171,919)	(419,116)
Napa	(201,344)	(140,029)	(341,372)
Nevada	(73,172)	(50,889)	(124,061)
Orange	(2,329,964)	(1,620,421)	(3,950,384)
Placer	(158,172)	(110,004)	(268,177)
Plumas	(26,315)	(18,301)	(44,617)
Riverside	(1,103,620)	(767,535)	(1,871,155)
Sacramento	(1,184,431)	(823,737)	(2,008,167)
San Benito	(388,731)	-	(388,731)
San Bernardino	(429,381)	-	(429,381)
San Diego	(2,471,235)	(1,718,671)	(4,189,906)
San Francisco	(1,680,270)	(1,168,578)	(2,848,848)
San Joaquin	(138,609)	-	(138,609)
San Luis Obispo	(220,377)	(153,266)	(373,643)
San Mateo	(926,196)	(644,142)	(1,570,338)
Santa Barbara	(565,524)	(393,305)	(958,829)
Santa Clara	(1,328,935)	(924,235)	(2,253,169)
Santa Cruz	(195,964)	(136,287)	(332,251)
Shasta	(49,261)	-	(49,261)
Sierra	(14,383)	(10,003)	(24,386)
Siskiyou	(106,556)	(74,106)	(180,662)
Solano	(322,006)	(223,946)	(545,952)
Sonoma	(350,209)	(243,560)	(593,768)
Stanislaus	(248,948)	(173,136)	(422,084)
Sutter	(867,268)	(42,024)	(909,292)
Tehama	(863,725)	(36,646)	(900,370)
Trinity	(562,562)	(10,173)	(572,735)
Tulare	(88,339)	-	(88,339)
Tuolumne	(50,795)	(35,327)	(86,122)
Ventura	(470,354)	(327,117)	(797,472)
Yolo	(120,747)	(83,976)	(204,723)
Yuba	(55,474)	(38,580)	(94,054)
Totals:	(41,000,000)	(19,000,000)	(60,000,000)

FY 2004-2005 Recommended Consolidated Administration Allocation

Court System A	Total FY 2004-05 Ongoing Base Budget Including Pending Funding (except security) B	Percent Court's Budget is of Total Budget C	Consolidated Admin. Reduction (C x 2.5 mil) D
Alameda	94,920,355	5.19%	129,803
Alpine	531,320	0.03%	727
Amador	2,212,609	0.12%	3,026
Butte	8,422,329	0.46%	11,517
Calaveras	1,616,494	0.09%	2,211
Colusa	1,331,383	0.07%	1,821
Contra Costa	45,933,018	2.51%	62,813
Del Norte	2,183,326	0.12%	2,986
El Dorado	8,080,560	0.44%	11,050
Fresno	38,100,323	2.08%	52,102
Glenn	1,513,019	0.08%	2,069
Humboldt	6,335,312	0.35%	8,663
Imperial	6,763,008	0.37%	9,248
Inyo	1,918,718	0.10%	2,624
Kern	35,143,361	1.92%	48,058
Kings	5,573,521	0.30%	7,622
Lake	2,376,454	0.13%	3,250
Lassen	1,479,741	0.08%	2,024
Los Angeles	549,429,836	30.05%	751,340
Madera	4,496,752	0.25%	6,149
Marin	17,241,618	0.94%	23,578
Mariposa	740,925	0.04%	1,013
Mendocino	5,572,211	0.30%	7,620
Merced	7,200,208	0.39%	9,846
Modoc	647,778	0.04%	886
Mono	1,253,329	0.07%	1,714
Monterey	14,803,621	0.81%	20,244
Napa	7,712,366	0.42%	10,547
Nevada	4,393,555	0.24%	6,008
Orange	151,110,299	8.27%	206,642
Placer	10,030,920	0.55%	13,717
Plumas	1,562,565	0.09%	2,137
Riverside	69,372,592	3.79%	94,866
Sacramento	78,833,189	4.31%	107,804
San Benito	1,598,772	0.09%	2,186
San Bernardino	73,877,904	4.04%	101,027
San Diego	161,073,274	8.81%	220,266
San Francisco	62,142,385	3.40%	84,979
San Joaquin	22,607,833	1.24%	30,916
San Luis Obispo	13,450,627	0.74%	18,394
San Mateo	36,433,708	1.99%	49,823
Santa Barbara	22,570,965	1.23%	30,866
Santa Clara	92,450,728	5.06%	126,425
Santa Cruz	12,263,147	0.67%	16,770
Shasta	7,974,974	0.44%	10,906
Sierra	502,553	0.03%	687
Siskiyou	3,963,512	0.22%	5,420
Solano	20,744,738	1.13%	28,368
Sonoma	22,671,563	1.24%	31,003
Stanislaus	15,593,799	0.85%	21,324
Sutter	3,755,794	0.21%	5,136
Tehama	3,047,429	0.17%	4,167
Trinity	894,400	0.05%	1,223
Tulare	15,023,566	0.82%	20,545
Tuolumne	2,985,254	0.16%	4,082
Ventura	32,186,821	1.76%	44,015
Yolo	8,139,825	0.45%	11,131
Yuba	3,377,083	0.18%	4,618
Totals:	1,828,167,271	100.00%	2,500,000